IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2331 OF 2004

Kamal Tibrewala Petitioner

versus

M/s.Kopran Ltd. and others Respondents

S.K.Jain for applicant.

S.S.Pednekar, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 2nd December 2005

PC :

1. The petitioner who is an accused in the complaint filed under section 138 of the Negotiable Instruments Act, 1881, assails an order by which the learned Magistrate has refused to recall the issuance of process.

2. After reading the aforesaid order and the complaint averments, in my view, the course adopted by the learned Magistrate cannot be said to be vitiated by errors apparent on the face of record or can be termed as perverse so as to call for any interference in my limited jurisdiction under Article 227 of the Constitution of India. The petition is, therefore, dismissed. However, dismissal of this petition as well as

observations in the order passed by the Magistrate does not, in any manner, affect the right of the petitioners herein to raise appropriate contentions at an appropriate stage. The Magistrate shall not be influenced by his earlier order and shall decide the matter uninfluenced thereby on merits and in accordance with law.

(S.C.DHARMADHIKARI, J.)